

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications Act of 1996)	
)	
Telephone Number Portability)	CC Docket No. 95-116

REPLY COMMENTS OF ALLTEL COMMUNICATIONS, INC.

Glenn S. Rabin
Assistant Vice President
Federal Regulatory Affairs
ALLTEL COMMUNICATIONS, INC.
601 Pennsylvania Avenue, NW
Suite 720
Washington, D.C. 20004
(202) 783-3976

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REPLY COMMENTS OF ALLTEL COMMUNICATIONS, INC.

ALLTEL Communications, Inc. (“ALLTEL”) hereby submits these reply comments in response to the Commission’s further notice of proposed rulemaking in the above-captioned proceeding.¹ ALLTEL is a prominent provider of mobile communications and part of the diversified family of ALLTEL companies, which include incumbent local exchange carriers (“ILEC”), competitive local exchange carriers (“CLEC”), long distance, Internet, and information services. ALLTEL serves approximately 6.4 million wireless subscribers nationwide, predominantly in rural areas and mid-sized urban areas in the Southeast. ALLTEL also has substantial service territories in the Southwest and Midwest.

I. INTRODUCTION AND SUMMARY.

ALLTEL, in keeping with its understanding of the Commission’s desired results and the critical public policy imperative of maintain numbering resources, is making every possible

¹ *Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Telephone Number Portability*, Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116, FCC 02-73 (rel. March 14, 2002) (“Third Reconsideration Order and FNPRM”).

effort to ensure that it will be ready to participate in thousands-block number pooling (“TBNP”) on November 24, 2002 consistent with the demands of the pooling roll out schedules announced by the Commission. ALLTEL has voiced its support for the petition seeking forbearance from wireless local number portability obligations, based on the fact that TBNP can be achieved without implementation of full-blown local number portability functionality. The record in the forbearance proceeding and the comments in this proceeding clearly demonstrate that this goal can be accomplished through making the bright-line distinction between the implementation deadlines for those network functions needed to support *both* TBNP *and* porting (LRN architecture and MIN/MDN split), and those “back office” or OSS functions required *in addition to* the LNP network functions to support full-blown porting.²

Yet, ALLTEL, while dedicated to providing TBNP capability on November 24, 2002, feels compelled to note, after again reviewing the Commission’s Part 52 rules, that it knows neither why, nor under what force of legal compulsion it is required to do so. Indeed, the comments in this proceeding have caused ALLTEL to waiver between legitimate concern for the continued integrity of the nationwide wireless network on the one hand and petty annoyance on the other -- for it is abundantly clear on the face of both the rules and the record (and without regard to the pending forbearance petition) that there is a fundamental disconnect among covered CMRS carriers as to that which is required strictly as a matter of legal compliance under the rules and that which is required as a practical matter to make the nationwide wireless network function and to preserve seamless nationwide automatic roaming. The rules are unclear, at odds with other Commission statements, and simply do not contain the level of detail required to unify the entirety of a diverse industry behind a consistent approach to the TBNP mandate. Carriers

² See, e.g. Comments of Voicestream Wireless Corporation at page 3, fn.5.

are confused,³ there is a conflict between the legal and technical disciplines, and time is short.

The Commission must, of necessity, act immediately to clarify the requirements and obligations that carriers must shoulder, or both porting and TBNP mandates will be endangered and the public interest will not be served.

II. IF THE COMMISSION ORDERS NUMBER POOLING IN THE LARGEST 100 MSAs EVEN WITHOUT AN LNP OBLIGATION, IT MUST CLARIFY THE COST RECOVERY MECHANISM.

As the comments in this proceeding reveal, the Commission has created widespread confusion regarding the LNP and TBNP requirements that apply to CMRS carriers.⁴ The Commission has added to the confusion by seeking comment – on the eve of CMRS carriers' implementation date – on changes to the porting and TBNP rules. This uncertainty has created a rueful situation that has the potential to undermine not only the successful implementation of pooling, but the reliability of wireless networks and the integrity of roaming. To ensure the successful implementation of TBNP and to protect the integrity of wireless service, the Commission must promptly resolve the issues laid out in this section.

As noted above, ALLTEL remains committed to participating in TBNP on November 24, 2002. At the same time, ALLTEL continues to believe that the Commission should forbear from applying the LNP requirement to CMRS carriers.⁵ At the very least, however, the Commission should postpone application of the LNP rules to CMRS carriers until such time as: (1) number pooling, the more important mandate, has been implemented successfully, and (2) the substantial

³ ALLTEL notes that experienced and reputable carriers, such as US Cellular have expressed these same concerns, and ALLTEL expresses its appreciation that at least one carrier has the fortitude to come forward with the elemental concerns that all CMRS carriers have been contemplating.

⁴ See generally, Comments of United States Cellular Corporation.

⁵ See ALLTEL comments, WT Docket No. 01-184 (filed Sept. 21, 2001); ALLTEL Reply comments, WT Docket No. 01-184 (filed Oct. 22, 2001).

legal and operational uncertainties surrounding the network requirements for both CMRS LNP and TBNP have been resolved and carriers have had a reasonable time to comply. Even if LNP forbearance is granted, the Commission must issue guidance to carriers about the operational requirements of TBNP implementation to avoid major, customer-affecting problems with the reliability of wireless service in this country. The significant areas of uncertainty that must be clarified include the following.

When are CMRS carriers required to provide LNP? The Commission generally has stated in its orders that CMRS carriers are required to provide LNP beginning on November 24, 2002, within the largest 100 MSAs.⁶ In 1997, the Commission limited the LNP requirement to switches that had been subject to a carrier request for LNP, and the rules were amended to reflect this.⁷ Although the Commission has stated that CMRS carriers are required to provide LNP outside the largest 100 MSAs where they receive a request, the CMRS LNP rule – unlike the wireline LNP rule that it otherwise mirrors – does not make any provision for CMRS carriers to provide LNP outside the largest 100 MSAs.⁸

Despite this vagueness, prior to the release of the *Numbering Third Report & Order*, CMRS carriers generally believed that they would be required to provide LNP on November 24, 2002, pursuant to carrier requests submitted on or before February 24, 2002. Then, in December 2001, two months before carriers were required to submit requests for portability by November

⁶ See, e.g., *Cellular Telecommunications Industry Ass'n Petition for Forbearance from CMRS Number Portability Obligations*, Memorandum Opinion & Order, 14 FCC Rcd 3092, 3094 para. 4, 3111 para. 37 (1999) (“*CTIA Order*”); *Numbering Resource Optimization*, Report & Order, 15 FCC Rcd 7574, 7644 para. 157 n. 361; Order, DA 02-948 at para. 3 (rel. Apr. 24, 2002).

⁷ *Telephone Number Portability*, First Memorandum Opinion & Order on Reconsideration, 12 FCC Rcd 7236, 7313 para. 137.

⁸ *Id.* at 7314 para. 137; 47 CFR § 52.31. Cf. 47 CFR § 52.23(c).

24, 2002, the Commission released the *Numbering Third Report & Order*, in which it “clarified” that the request requirement did not apply inside the top 100 MSAs.⁹ Rather, *all* carriers within the largest 100 MSAs would be expected to provide LNP irrespective of whether they had received a request.¹⁰

Then, after the February 2002 deadline for submitting requests had past, the Commission acknowledged that the *Numbering Third Report & Order*’s “clarification” that there was no request requirement inside the top 100 MSAs had reversed the rule without notice and comment, and reinstated the request requirement.¹¹ The *Third Reconsideration Order and FNPRM* sought comment, however, on whether the Commission should, in fact, require LNP inside the top 100 MSAs without a request.¹² This issue remains pending at the Commission, and may or may not be resolved by November 24, 2002. Meanwhile, it does not appear that any CMRS carrier received a request to provide portability on November 24, 2002.¹³

As US Cellular has stated, the Commission may believe that “sometime this fall, following the receipt of comments [in this proceeding] ... it will, by order, decree the full implementation of LNP and thousands block pooling in all ‘top 100’ MSAs by November 24, 2002.”¹⁴ Many argue that such an outcome would be patently unfair to carriers that relied on the prior rule, and state that insufficient time exists before November to expand the scope of the

⁹ *Numbering Resource Optimization*, Third Report & Order, 17 FCC Rcd 252, 306 para. 125 (2002).

¹⁰ *Id.*

¹¹ *Numbering Resource Optimization*, Third Order on Reconsideration and Further Notice of Proposed Rulemaking, 17 FCC Rcd 4784, 4786 para. 5 (2002).

¹² *Id.* at 4786 para. 8.

¹³ *See, e.g.*, US Cellular comments at 5.

¹⁴ US Cellular comments at 7.

mandate.¹⁵ Other carriers take different views on the requirements.¹⁶ Clearly, it is an untenable situation when this degree of uncertainty exists only six months before the ostensible implementation deadline

When are CMRS carriers required to participate in number pooling? The Commission's rules require that all carriers that are "capable of providing" LNP must participate in number pooling. The Commission has never defined what constitutes being "capable of providing" LNP, although the Commission's orders generally have suggested that the pooling obligation extends to carriers that are *required* to provide LNP.¹⁷ On the other hand, it could be argued that a carrier that faced no immediate LNP obligation, but who had, for whatever reason, deployed the LNP software upgrade in its switch, is thus "capable of providing" LNP and therefore required to pool.

Moreover, as noted above, there is significant uncertainty among carriers about when and where LNP is required. Thus, and in the absence of a clear severance of the LNP and TBNP obligations in the rules, similar uncertainty exists regarding the pooling obligation. TBNP only applies to "LNP capable" carriers.¹⁸ But despite the fact that the pooling roll out schedules go well beyond the top 100 MSAs (either as currently defined or as the Commission may seek to redefine them), Section 52.31 of the Commission's rules does not contemplate on its face LNP requirements in markets below the top 100 MSAs. Nor does the plain language of these rules

¹⁵ See, e.g., Western Wireless comments at 4-6; Rural Cellular Ass'n comments at 6; Cellular Telecommunications & Internet Ass'n comments at 4; National Telecommunications Cooperative Ass'n comments at 3-4.

¹⁶ World Com comments at 2-3.

¹⁷ *Numbering First Report & Order*, 15 FCC Rcd at 7627 para. 125.

¹⁸ 47 CFR Section 52.20(b). LNP capability is an undefined term, which takes on critical importance given the need to differentiate between the network functions jointly associated with TBNP and porting, and the back office or OSS functions associated with porting alone.

contemplate a “flash-cut” LNP capability in the top 100 MSAs, but rather contemplate a request process on a switch-by-switch basis. Hence, it can be argued on the face of the rules that carriers need not participate in TBNP until they have received a bona fide request to take their switch LNP capable and only then in the top 100 MSAs.¹⁹ This reading plainly does not comport either with industry’s general understanding of the Commission’s requirements, or with past FCC statements. For example, the Commission has stated:

Covered CMRS carriers in the largest 100 MSAs must implement pooling by November 24, 2002. *CMRS LNP Forbearance Order*, 14 FCC Rcd at 3112. Wireline and covered CMRS carriers outside the top 100 MSAs are required to deploy LNP in the future only if and when they receive a request from a competing carrier. *LNP First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd at 7314. Covered CMRS carriers outside the largest 100 MSAs, however, must support separation of the Mobile Identification Number (MIN) and the Mobile Directory Number (MDN) used to identify a subscriber, in order to support roaming by subscribers with ported numbers.²⁰

Clearly, the Commission must clarify its pooling rules well before November 24, 2002.

What are the functional and operational requirements for CMRS carriers to implement LNP? The Commission defined the operational and functional requirements for porting among wireline carriers by incorporating by reference in section 52.26(a) of the rules the Report of the NANC Local Number Portability Administration Selection Working Group of April 25, 1997 (“Working Group Report”).²¹ The Working Group Report, however, by its own

¹⁹ The Commission’s LNP rules do require that, as of November 24, 2002 all covered CMRS carriers must be capable of supporting roaming nationwide, but the pooling rule contains no such provision (although from a network perspective there is little difference). But while porting a number requires the split of MIN/MDN, roaming calls to and from a ported number can be completed by carriers who have not implemented MIN/MDN separation, although abundant billing and fraud problems follow, and seamless automatic roaming may be threatened.

²⁰ *Numbering Resource Optimization*, Second Report & Order, 16 FCC Rcd 306, 363 n. 338 (2000). The Commission, by noting that carriers in the top 100 MSAs had to implement pooling on November 24th, 2002, clearly implied that carriers must be LNP capable as well by that date. See 47 CFR § 52.20.

²¹ 47 CFR § 52.26(a).

terms, “was directed primarily to the wireline portion of the industry and did not fully address wireless concerns.”²² Thus, substantial uncertainty remains regarding the functional and operational requirements that apply in the wireless context.

The Commission may wish that the wireless industry should decide how to resolve all of the technical issues to implement LNP.²³ Yet, Commission leadership is even more important as CMRS carriers move towards LNP and TBNP implementation that it was for the wireline implementation because of the need to resolve conflicts among industry segments. For example, the Working Group Report addresses porting intervals for wireline-to-wireline ports, but does not address porting intervals for ports involving wireless carriers.²⁴ In fact, after issuing the report incorporated into section 52.26(a) of the rules, the Working Group went on to issue a Report on Wireless-Wireline Integration which acknowledges the unresolved porting interval issue.²⁵ The NANC’s Wireless Number Portability Operations Group (“WNPO”) has continued to work on these issues but has not, to ALLTEL’s knowledge, resolved the question. Nor has the Commission incorporated any WNPO guidelines by reference in its rules. Consequently, carriers are at this late date without a unified and enforceable roadmap detailing the LNP or TBNP network requirements.

Another difficult question is the extent of CMRS carriers’ obligation to support roaming after LNP or TBNP has been implemented by any CMRS carrier. In the course of attempting to establish technical requirements, the wireless industry determined that it was necessary, to ensure

²² Working Group Report at 8, § 3.1.

²³ See *CTIA Order*, 14 FCC Rcd at 3108 para. 33.

²⁴ Working Group Report at Appendix A, p. 2.

²⁵ NANC LNPA Working Group Report on Wireless-Wireline Integration (May 8, 1998) at § 7.2.3.

full compatibility with pooling and portability and to protect the integrity of nationwide roaming, to separate the dialable telephone number, or Mobile Directory Number (“MDN”), from the Mobile Identification Number (“MIN”) that is used by the wireless network to route the call.²⁶

Mid-Missouri Cellular presents a proposal it has previously filed in the LNP forbearance docket.²⁷ The thrust of this proposal is that modifications could be made to the number pooling rules to permit some CMRS carriers to implement the separation of the MIN from the MDN while others do not. This proposal would require substantial and costly reworking of the current technologies and MBI administration. But even if it could be implemented, the proposal would seriously undermine the effectiveness of pooling. In light of the Mid-Missouri Cellular proposal, however, it is unclear whether all wireless carriers, particularly those operating in rural areas, will implement the MIN/MDN split before November.

If some wireless carriers fail to implement the MIN/MDN split, there will be significant problems with roaming customers, yet the Commission’s rules fail to ensure that roaming will be protected adequately. From the carrier perspective, the problems will range from the impairment of vertical features, billing and fraud issues, to the inability of some customers (those whose MINs and MDNs do not match) to roam under some circumstances. As public safety agencies have observed, it also will cause serious problems with E-911 callback.²⁸ In this regard, it is important to note that wireless carriers that are required to provide LNP face an obligation, in the

²⁶ See, e.g., *Numbering First Report & Order*, 15 FCC Rcd at 7633 n. 310; see also NANC LNPA Wireless-Wireline Integration Report at § 4.1.

²⁷ Mid-Missouri Cellular comments at 3, 10-12. Ex parte comments of Mid-Missouri Cellular on Adverse Impact of WLNP on Pooling and MIN/MDN Separation on E911, WT Docket No. 01-184 (filed March 26, 2002).

²⁸ Ex parte letter in WT Docket No. 01-184 from James R. Hobson, on behalf of NENA, APCO, and NASNA, to Marline H. Dortch, FCC, dated May 1, 2002.

process, to support roaming²⁹ but there remains the open question as to whether this obligation applies to ported and pooled numbers. Nor does the number pooling rule include a requirement to support roaming. Thus, the rules are currently inadequate to ensure that serious roaming problems do not occur.

ALLTEL believes that Mid-Missouri Cellular's proposal to resolve these problems is unworkable at this late stage of the proceedings and so close to the implementation deadline. First, by requiring that MINs continue to match MDNs, the proposal would require carriers and the MIN Block Administrator ("MBA") to track MINs at the same thousands-block level at which telephone numbers (MDNs) are tracked, and ensure that the same MIN and MDN are always assigned. Neither carriers nor the MBA anticipated a need to keep MINs and MDNs paired or to track MINs at the thousands-block level, however, and thus lack systems to do so. Indeed, generic wireless switch software that switch vendors are currently implementing in anticipation of LNP/pooling can only track MINs at levels below the ten-thousands-block level through "special exceptions" in the switch programming. Most switches have a limit of 60,000 individual special exceptions; thus, a single roaming partner that is subject to pooling obligations could easily exhaust a rural carrier's switch capacity. Similarly, the billing and operational support systems that carriers have ordered and presently are putting in place to prepare for LNP/pooling have not been equipped to keep the MIN and MDN paired, or to track MINs in blocks smaller than ten thousand. There is no time before November to redesign these systems to accommodate Mid-Missouri Cellular's proposal. Yet, there is no rule enforceable by its terms that requires Mid-Missouri to comply with what has become, albeit informally, and industry

²⁹ 47 CFR Sec. 52.31 (a)(2)

standard. Nor can larger carriers, in view of the threats that their actions would reek of anti-competitive conduct, use their power to compel rural roaming partners to comply.

Even if all the technical problems miraculously could be overcome, however, Mid-Missouri Cellular's proposal would seriously compromise the effectiveness of number pooling. As Mid-Missouri Cellular admits, its proposal would not allow more than one wireless carrier to receive contaminated blocks donated by a single carrier, and – most significantly – it would not allow more than one wireless carrier to participate in number pooling in a given rate center.³⁰ ALLTEL believes that these two limitations on Mid-Missouri Cellular's proposal would so drastically reduce the effectiveness of pooling as a numbering resource optimization measure that the proposal must be rejected.

The wireless industry has made extraordinary efforts to implement the LNP and pooling mandates in a reasonable and timely fashion. They have been forced to do so, however, not in an environment of regulatory certainty, but in a swirling regulatory vacuum that has made a difficult task impossible. The Commission must now recognize the need for additional guidance and postpone the CMRS LNP deadline at least long enough to clarify its rules, and in particular those rules governing TBNP, and provide carriers with a reasonable time to comply.

III. IF THE COMMISSION ORDERS NUMBER POOLING IN THE LARGEST 100 MSAs EVEN WITHOUT AN LNP OBLIGATION, IT MUST CLARIFY THE COST RECOVERY MECHANISM.

In the *Third Reconsideration Order and FNPRM*, the Commission seeks comment on “whether all carriers within the largest 100 MSAs should be required to participate in thousands-block number pooling, regardless of whether they are capable of providing LNP or whether they

³⁰ Ex parte comments of Mid-Missouri Cellular on Adverse Impact of WLNP on Pooling and MIN/MDN Separation on E911, WT Docket No. 01-184 (filed March 26, 2002) at Attachment B, pp. 1-3.

have received a request to provide LNP in a particular switch.”³¹ In the *Numbering Third Report & Order*, the Commission concluded that number pooling costs for wireline carriers should be recovered through rate regulated ILECs’ access charges.³² This recovery mechanism differs from the recovery mechanism for LNP costs (which are recovered through a combination of end-user charges and carrier query charges).³³

In adopting the cost recovery mechanism for pooling costs, the Commission made clear that recoverable pooling costs would only be those costs that were not already being recovered through the number portability cost recovery mechanisms,³⁴ acknowledging that some of the network and software related costs of pooling are common to LNP. Yet, in the *Third Reconsideration Order and FNPRM*, the Commission has opened up the possibility that carriers will be required to incur the costs of implementing pooling without any concurrent mandate to provide LNP. Should this occur, the entire cost of, for example, the switch software upgrade, would be incurred solely to support number pooling and, apparently, could be recovered through the pooling cost recovery mechanism.

Because of the tension between this outcome and the outcome apparently envisioned in the *Numbering Third Report & Order*, in the event the Commission concludes that carriers should provide number pooling absent an LNP obligation, the Commission should clarify the correct cost recovery mechanism for these costs.

³¹ *Third Reconsideration Order and FNPRM* at para. 9.

³² *Numbering Third Report & Order*, 17 FCC Rcd at 271 para. 39.

³³ *Telephone Number Portability*, Third Report & Order, 13 FCC Rcd 11701, 11774 paras.144-42.

³⁴ *Numbering Third Report & Order*, 17 FCC Rcd at 275 para. 46.

CONCLUSION

Wireless carriers have worked tirelessly over the last several years to prepare for the LNP and pooling requirements. This is an enormous undertaking, similar in scope to the Y2K conversion. Yet, during this time, the Commission has demonstrated a lack of leadership and, most recently, a penchant for repeated changes in crucial requirements. The time has come for the Commission to acknowledge the need for significant clarification of the requirements by which wireless carriers must abide. To minimize the potential for customer-affecting problems during TBNP implementation, the Commission should delay implementation of LNP until these issues can be resolved. Further, to ensure that pooling is rolled out successfully, however, the Commission should clarify the operational requirements for CMRS carriers to support number pooling and nationwide roaming.

Respectfully submitted,

By: _____ /s/
Glenn S. Rabin
Assistant Vice President
Federal Regulatory Affairs
ALLTEL COMMUNICATIONS, INC.
601 Pennsylvania Avenue, NW
Suite 720
Washington, D.C. 20004
(202) 783-3976

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